by grantors to set aside a deed very shortly after the grantee had made a deed to a third person, who was chargeable with knowledge of the facts, and was brought promptly after one of the grantors, rendered incompetent by reason of intoxication, realized what had happened, the third person could not defeat the action on the ground of the grantor's ratification of the transaction.

[Ed. Note.—For other cases, see Deeds, Cent. Dig. §§ 206-208; Dec. Dig. § 75.* 6 Va.-W. Va. Enc. Dig. 483; 15 Va.-W. Va. Enc. Dig. 426.]

Appeal from Chancery Court of Richmond.

Action by Elvina E. Glaze and another against V. M. Sutton and K. T. Crawley. From a decree for complainants, defendant Crawley appeals. Affirmed.

RICKS et al. *v.* SCOTT et al.

March 11, 1915.

[84 S. E. 676.]

1. Easements (§ 18*)—Way of Necessity—Implied Grant.—Where an owner of two adjoining farms having a cart path leading from one to the other, and thence to a public road, sells one of them, no mention being made of the cart path, there was no implied grant of the right of way as of necessity where there is in existence another road leading from the sold farm to the same road, but in a different direction, which the grantee had the unqualified right to use.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 50-55; Dec. Dig. § 18.* 4 Va.-W. Va. Enc. Dig. 859; 14 Va.-W. Va. Enc. Dig. 362; 15 Va.-W. Va. Enc. Dig. 316.]

2. Easements (§ 36*)—Adverse User—Evidence.—Evidence held insufficient to show that a purchaser of a farm adjoining the grantor's farm or his privies used it or laid claim to a right of way over a cart path leading through the grantor's farm to a public road so as to give any rights as against a bona fide purchaser of the grantor's.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 77, 78, 88-93; Dec. Dig. § 36.* 11 Va.-W. Va. Enc. Dig. 312; 14 Va.-W. Va. Enc. Dig. 838.]

3. Easements (§ 20*)—Transfer of Property—Bona Fide Purchaser.—Where no private right of way or other easement is reserved in the deed itself, and the purchaser has no notice of any claim by third persons of a right of way over the land, he takes the land free from any claim therefor either from the grantor or those claiming under him.

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 59, 60;

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

Dec. Dig. § 20.* 4 Va.-W. Va. Enc. Dig. 861; 15 Va.-W. Va. Enc. Dig. 316.]

Appeal from Circuit Court, Southampton County.

Suit by Joseph E. Scott and others against W. A. Ricks and others. From a judgment for complainants, defendants appeal. Reversed.

J. Hoge Ricks and *Cutchins & Cutchins*, all of Richmond, for appellants.

R. E. L. Watkins, of Franklin, and *Peatross & Savage*, of Norfolk, for appellees.

NORFOLK SOUTHERN R. CO. *v.* CROCKER.

March 11, 1915.

[84 S. E. 681.]

1. Railroads (§ 394*)—Action for Personal Injuries—Declaration—Last Clear Chance.—A declaration, alleging that plaintiff had been riding as passenger on defendant's freight train, and that when it stopped to shift cars he left the train, with the conductor's knowledge; that, while waiting while the engine was shifting cars, the conductor called him to the track to show him a broken car; that while he was examining it, and while defendant's servants in charge of the train, had they exercised ordinary care, could have seen him and his dangerous position in time to avoid injury, they negligently switched a car against the car so as to start it and injure plaintiff; that the conductor negligently failed to warn him of the engine's approach in time for him to avoid injury, but that the trainmen saw him in time to have avoided injury by exercise of ordinary care—stated a cause of action within the rule of the last clear chance.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. §§ 1331-1338; Dec. Dig. § 394.* 10 Va.-W. Va. Enc. Dig. 398; 11 Va.-W. Va. Enc. Dig. 595; 14 Va.-W. Va. Enc. Dig. 770; 15 Va.-W. Va. Enc. Dig. 729.]

2. Negligence (§ 83*)—"Last Clear Chance."—The "last clear chance" rule is a qualification of the rule that contributory negligence bars a recovery, and the principle is that, although the plaintiff negligently exposes himself to peril, and that, although his negligence continues until the accident happens, he may recover if the defendant, with knowledge of his danger and reason to suppose that he may not save himself, may avoid the injury by exercise of ordinary care, and fails to do so.

[Ed. Note.—For other cases, see Negligence, Cent. Dig. § 115; Dec. Dig. § 83.* 10 Va.-W. Va. Enc. Dig. 389; 14 Va.-W. Va. Enc. Dig. 769; 15 Va.-W. Va. Enc. Dig. 726.

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.